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November 11, 2014

BY CERTIFIED MAIL

Gary Sponsler, General Manager
Prolerized New England, Co., LLC
69 Rover St.
Everett, MA 02149
Certified Mail # 7012 2210 0001 3554 3420

Re: 60-Day Notice of Violations and Intent to File Suit Regarding Noncompliance with Federal Clean Water Act's Industrial Stormwater Discharge Requirements: 69 Rover Street, Everett MA

Dear Mr. Sponsler:

This office represents Clean Water Action, a national non-profit citizens' organization working for prevention of pollution in the nation's waters, protection of natural resources, creation of environmentally-safe jobs and businesses, and empowerment of people to make democracy work. Clean Water Action has over one million members nationally, more than 50,000 of whom reside in Massachusetts.

We write to give notice that Clean Water Action intends to file a civil action in the United States District Court for the District of Massachusetts under Section 505 of the Federal Clean Water Act (the "Act") against Prolerized New England Company ("Prolerized"). The subject of the action will be Prolerized's unlawful discharge of stormwater from its scrap metal recycling facility at 69 Rover Street, Everett (the "Facility"). Stormwater runoff from the Facility is discharged into the Mystic River.

Prolerized submitted a Notice of Intent ("NOI") to be covered by EPA's reissued Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (the

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"Permit") on January 5, 2009.[1] According to the NOI, the Mystic River is impaired for metals (other than mercury), oil and grease, organic enrichment (low dissolved oxygen), other inorganics, pathogens, priority organics, unionized ammonia, and taste, color, and odor. Prolerized has had a pattern of exceeding EPA benchmark limits for zinc, iron, lead, copper, aluminum, and COD. The ongoing nature of these exceedances shows that the company is not taking adequate corrective action to reduce pollultants in its stormwater discharges.

BACKGROUND

Activities that take place at industrial facilities, such as material handling and storage, are often exposed to the weather. As runoff from rain or snowmelt comes into contact with these materials, it picks up pollutants and transports them to nearby rivers, lakes, or coastal waters and tributaries thereto, including but not limited to storm sewer systems, wetlands, and other surface waters. Stormwater pollution is a significant source of water quality problems for the nation's waters.

The following are some of the activities, pollutant sources and pollutants that may be present with Prolerized's scrap metal recycling processes:[2]

Activity	Pollutant Source	Pollutant
Stockpiling and storage of materials (including loading and unloading)	Leaking of various fluids from used automotive engines, radiators, brake fluid reservoirs, transmission housings, other vehicle parts, and lead-acid from batteries; Deterioration/corrosion of materials.	PCBs; oil and grease; lubricants; paint pigments or additives; heavy metals; ionizing radioactive isotopes; transmission and brake fluids; fuel; battery acid; lead acid; antifreeze; benzene; chemical residue; heating oil; petroleum products; solvents; ionizing radioactive isotopes; infectious/bacterial contamination; asbestos; metals; total Kjeldahl nitrogen (TKN); oily wastes; chemical residue.

[1] The Stormwater Permit expired on September 29, 2013, but has been administratively continued by its own terms.

[2] Source: EPA Industrial Stormwater Fact Sheet Series, Sector N: Scrap Recycling and Waste Recycling Facilities, recovered from http://water.epa.gov/polwaste/npdes/stormwater/upload/sector_n_scraprecycling.pdf.

Material processing: Air pollution equipment (including incinerators, furnaces, wet scrubbers, filter houses, and bag houses)	Normal equipment operations that include the collection and disposal of filter bag material and ash, process wastewater from scrubbers, accumulation of particulate matter around leaking joint connections, malfunctioning pumps and motors (e.g., leaking gaskets, seals or pipe connections, leaking oil-filled transformer casings).	Hydraulic fluids; oils; fuels; grease and other lubricants; accumulated particulate matter; chemical additives; and PCBs from oil-filled electrical equipment.
Material processing: Combustion engines	Spills and/or leaks from fuel tanks; spills/leaks from oil/hydraulic fuel reservoirs; faulty/leaking hose connections; worn gaskets; leaking transmissions, crankcases, and brake systems (if applicable); leaking battery casings and/or corroded terminals.	Accumulated particulate matter; oil/Lubricants; gas/diesel fuel; fuel additives; antifreeze (ethylene glycol); battery acid; and products of incomplete combustion.
Material processing: Material handling systems (forklifts, cranes, and conveyors)	Spills and leaks from fuel tanks, hydraulic and oil reservoirs due to malfunctioning parts (e.g., worn gaskets and parts, leaking hose connections, and faulty seals). Damaged or faulty electrical switches (mercury filled). Damaged or leaking battery casings, including exposed corroded battery terminals. Damaged or worn bearing housings.	Hydraulic fluids; oils, fuels and fuel additives; grease and other lubricants; accumulated particulate matter; chemical additives; mercury; lead; battery acid.
Material processing: Stationary scrap processing facilities (balers, briquetters, shredders, shearers, compactors, engine block/ cast iron breakers, wire chopper, turnings crusher)	Leaks from hydraulic reservoirs, hose and fitting connections; worn gaskets; spills or leaks from fuel tanks; particulates/residue from scrap processing; malfunctioning pumps and motors (e.g., leaking gaskets, seals or pipe connections, leaking oil-filled transformer casings).	Heavy metals (e.g., zinc, copper, lead, cadmium, chromium) and hydraulic fluids; PCBs.

Material processing: Hydraulic equipment and systems, balers/briquetter, shredders, shearers, compactors, engine block/ cast iron breaker, wire chopper, turnings crusher	Particulate/residue from material Processing; spills and/or leaks from fuel tanks; spills/leaks from oil/hydraulic fuel reservoirs; faulty/leaking hose connections/fittings; leaking gaskets.	Hydraulic fluids/oils; lubricants; particulate matter from combustion engines; PCBs (oil-filled electrical equipment components); heavy metals (nonferrous, ferrous).
Material processing: Electrical control systems (transformers, electrical switch gear, motor starters)	Oil leakage from transformers; leakage from mercury float switches; faulty detection devices.	PCBs; mercury (float switches); ionizing radioactive material (fire/smoke detection systems).
Material processing: Torch cutting	Residual/accumulated particulates.	Heavy metal fragments, fines.
Material handling systems	Spills and/or leaks from fuel tanks; spills/leaks from oil/hydraulic fuel reservoirs; faulty/leaking hose connections/fittings; leaking gaskets.	Accumulated particulate matter (ferrous and nonferrous metals, plastics, rubber, other); oil/lubricants; PCBs (electrical equipment); mercury (electrical controls); lead/battery acids.
Vehicle maintenance	Parts cleaning; waste disposal of rags; oil filters; air filters; batteries; hydraulic fluids; transmission fluids; brake fluids; coolants; lubricants; degreasers; spent solvents.	Gas/diesel fuel; fuel additives; oil/lubricants; heavy metals; brake fluids; transmission fluids; chlorinated solvents; Arsenic.
Vehicle fueling	Spills and leaks during fuel transfer; spills due to "topping off" tanks; runoff from fueling areas; washdown of fueling areas; leaking storage tanks; spills of oils; brake fluids; transmission fluids; engine coolants.	Gas/diesel fuel; fuel additives; oil; lubricants; heavy metals.
Vehicle and equipment cleaning and washing	Washing and steam cleaning.	Solvent cleaners; oil/lubricants/additives; antifreeze (ethylene glycol).

Clean Water Action will ask the Court to ensure Prolerized's future compliance with the Act, assess civil penalties in an appropriate amount,[3] award plaintiff its litigation costs, including attorney and expert fees, and award any other relief the Court deems appropriate. Clean Water Action's complaint will be filed a minimum of 60 days after the postmark date of this letter. This is a formal 60-day notice of intent to sue that is being served pursuant to 40 C.F.R., Part 135.

This notice is being provided by:

Cindy Luppi, New England Regional Co-Director
Clean Water Action
262 Washington Street, Suite 301
Boston, MA 02108
(617) 338-8131
(617) 335-6449 (fax)

Counsel for Clean Water Action in this case is:
Nora J. Chorover
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PROLERIZED'S VIOLATIONS AND DATES OF VIOLATIONS

Prolerized's violations are described below and are also set forth on a Table attached as Exhibit A hereto.[4] The Complaint, when filed, will set forth additional days of violations that occur between the date of this letter and the date on which the Complaint is filed.

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[3] The Statute authorizes the Court to assess a penalty of up to $37,500 a day for each violation. *See* 33 U.S.C. § 1319(d) and 78 Fed. Reg. 66647 (Nov. 6, 2013).

[4] Clean Water Action believes that violations have occurred on the dates identified in this letter and on Exhibit A, and not just on rain days. However, to the extent it is determined that rain days are relevant in determining the dates of violations, such rain dates through October 30, 2014 are set forth on Exhibit B hereto. The complaint, when filed, will set forth additional rain dates since October 30, 2014.

A. VIOLATIONS OF THE TERMS OF THE PERMIT

Prolerized has violated the Permit's terms, as follows:

1. Failure to Implement Adequate Control Measures and Corrective Action

The Permit requires Prolerized to ensure that its control measures minimize its stormwater pollutant discharges. Permit, Section 2.0 (pg. 12).[5] Prolerized must modify its control measures as expeditiously as practicable whenever it finds that they "are not achieving their intended effect of minimizing pollutant discharges." *Id.*, Section 2.1. Corrective action must be taken whenever the results of monitoring show that "an exceedance of the 4 quarter average is mathematically certain."[6] Documentation of corrective action must be included in the annual report.[7]

As shown on the following table, Prolerized's stormwater discharges have exceeded the Permit's benchmark limits for COD, aluminum, copper, iron, and zinc. These exceedences have occurred on several occasions since the company began monitoring in July 2009.

TABLE OF MONITORING RESULTS FOR COD, ALUMINUM, COPPER, IRON, AND ZINC, COMPARED WITH EPA BENCHMARK LIMITS

Quarter	Collection Date	Date Sent to EPA	COD (120 mg/L)	Aluminum (.75 mg/L)	Copper (HD) (.0332 mg/L)	Iron (1.0 mg/L)	Zinc (HD) (.26 mg/L)
April-June 2014	6/25/2014	7/30/2014	500	0.73	0.04	3.7	0.42
Jan-March 2014	3/20/2014	4/21/2014	410	1	0.1	3.7	0.46
Oct-Dec 2013	12/30/2013	1/16/2014	120	0.16	0.02	1.1	0.14
July-Sep 2013	9/25/2013	10/25/2013	270	1.3	0.08	5	0.66
April-June 2013	6/25/2013	7/22/2013	160	6.1	0.3	22	3.8

[5] "Minimize" means "reduce and/or eliminate to the extent achievable using control measures (including best management practices) that are technologically available and economically practicable and achievable in light of best industry practice." *Id.*

[6] Permit, pg. 19.

[7] *Id.*

Quarter	Collection Date	Date Sent to EPA	COD (120 mg/L)	Aluminum (.75 mg/L)	Copper (HD) (.0332 mg/L)	Iron (1.0 mg/L)	Zinc (HD) (.26 mg/L)
Jan-March 2013	3/27/2013	4/17/2013	210	9.7	0.48	44	5.9
Oct-Dec 2012	12/26/2012	1/18/2013	550	0.49	0.05	1.2	0.38
July-Sep 2012	9/24/2012	11/12/2012	63	0.24	0.02	0.93	0.26
April-June 2012	6/28/2012	7/16/2012	60	0.38	0.02	1.7	0.23
Jan-March 2012	3/29/2012	4/20/2012	60	5.2	0.23	23	1.6
Oct-Dec 2011	12/20/2011	2/9/2012	110	4.4	0.21	23	1.3
July-Sep 2011	9/28/2011	10/27/2011	69	1.9	0.08	7.8	0.89
April-June 2011	6/27/2011	7/7/11	130	1.7	0.07	5.5	0.69
Jan-March 2011	2/24/2011	4/19/11	600	0.16	0.03	2.7	0.06
Oct-Dec 2010	12/3/2010	12/21/10	170	0.52	0.04	2.8	0.33
July-Sept 2010	9/30/2010	11/8/10	130	0.38	0.02	1.3	0.14
April-June 2010	6/3/2010	8/3/10	80	0.83	0.04	3.7	0.29
Jan-March 2010	2/26/10	10/25/10	840	7.4	0.39	25	2.7
Oct-Dec 2009	12/11/2009	7/6/10	90	0.82	0.17	3	0.27
Quarter 2 July 1 - Sept 30 2009	7/28/2009	6/16/10	60	0.18	0.01	0.8	0.06

The presence and persistence of these exceedences shows that the company has not complied with its requirement to "modify" its control measures "as expeditiously as practicable" to minimize its pollutant discharges.[8]

This Notice Letter alleges that Prolerized failed to implement adequate control measures based on information presently available to Clean Water Action. If additional information regarding this violation becomes known to Clean Water Action in the future, the complaint may set forth some or all of such additional information.

CONCLUSION

Clean Water Action believes this Notice of Violations and Intent to File Suit sufficiently states the basis for a civil action. During the 60-day notice period, we would be willing to discuss effective remedies for the violations noted in this letter that may avoid the necessity of litigation. If you wish to pursue such discussions, please have your attorney contact us within the next 20 days so that negotiations may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

Sincerely,

Nora J. Chorover
Attorney for
CLEAN WATER ACTION

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[8] Moreover, the permit requires the company to implement corrective action as set forth in Section 3.2 whenever the average of 4 quarterly sample results exceeds an applicable benchmark. To the extent corrective action was taken by the company following the triggering of this event, such corrective action was inadequate, as shown by the fact that benchmark exceedences have persisted.

cc: (by certified mail)

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EXHIBIT A

TABLE OF VIOLATIONS

PROLERIZED NEW ENGLAND

November 2009 – Present

Type of Violation	Parameter	Beginning Date of Violation	Earliest End Date of Violation
Failure to Implement Adequate Control Measures	COD	December 26, 2012	Present
Failure to Implement Adequate Control Measures	Aluminum	June 27, 2011	Present
Failure to Implement Adequate Control Measures	Copper	June 27, 2011	Present
Failure to Implement Adequate Control Measures	Iron	February 26, 2010	Present
Failure to Implement Adequate Control Measures	Zinc	June 27, 2011	Present

EXHIBIT B

DAYS BETWEEN
NOVEMBER 5, 2009 AND OCTOBER 30, 2014
ON WHICH STORMWATER FROM FACILITY
DISCHARGED TO WATERS OF THE UNITED STATES

November 2009:	14, 20, 24, 27, 30
December 2009:	1, 3, 5, 9, 10, 13, 20, 27
January 2010:	2, 3, 17, 18, 19, 20, 25, 26
February 2010:	11, 16, 17, 24, 25, 26
March 2010:	1, 13, 14, 15, 16, 23, 24, 26, 29, 30, 31
April 2010:	16, 17, 23
May 2010:	8, 14, 19, 27
June 2010:	1, 4, 5, 6, 10, 12, 20
July 2010:	10, 12, 13
August 2010:	5, 6, 16, 22, 23, 24, 25, 26
September 2010:	8, 14, 16, 17, 29
October 2010:	4, 6, 15, 28
November 2010:	5, 7, 8, 9, 17, 26
December 2010:	2, 12, 13, 20, 21, 26, 27
January 2011:	2, 8, 9, 12, 18, 19, 20, 21, 27
February 2011:	2, 5, 8, 25, 27, 28
March 2011:	1, 7, 17, 21, 22, 31
April 2011:	1, 4, 5, 13, 14, 17, 20, 23
May 2011:	4, 7, 15, 16, 19, 20, 23, 24
June 2011:	2, 10, 11, 12, 23, 25, 29
July 2011:	8, 9, 14, 23, 25, 26
August 2011:	3, 7, 8, 9, 10, 15, 16, 22, 27, 28
September 2011:	6, 7, 8, 9, 20, 24, 29, 30
October 2011:	1, 4, 13, 14, 19, 20, 27, 28, 29, 30
November 2011:	10, 16, 17, 23, 30
December 2011:	7, 8, 22, 23, 27
January 2012:	12, 13, 21, 23, 24, 26, 27
February 2012:	29
March 2012:	1, 2, 3
April 2012:	12, 13, 22, 23, 24
May 2012:	1, 9, 10, 15, 22, 29
June 2012:	2, 4, 5, 8, 13, 14, 23, 25, 26
July 2012:	4, 18, 28
August 2012:	1, 15
September 2012:	4, 5, 7, 8, 15, 19, 30
October 2012:	7, 10, 14, 20, 29, 30
November 2012:	7, 8, 13

December 2012:	8, 10, 16, 17, 18, 21, 26, 27, 29
January 2013:	11, 16, 28, 29, 31
February 2013:	8, 9, 11, 12, 17, 19, 23, 24, 27
March 2013:	7, 8, 18, 19
April 2013:	1, 10, 11, 20
May 2013:	8, 9, 10, 19, 24, 25, 29
June 2013:	3, 4, 7, 8, 10, 11, 13, 14, 17, 18, 24, 25, 28, 30
July 2013:	11, 12, 23, 25, 26, 29, 30
August 2013:	2
September 2013:	1, 2, 12, 13, 22
October 2013:	6, 7
November 2013:	7, 8, 18, 27
December 2013:	1, 9, 10, 14, 15, 29
January 2014:	2, 3, 6, 7, 11, 14, 18, 21
February 2014:	3, 5, 13, 14, 15, 18, 19, 20, 21
March 2014:	12, 13, 20, 29, 30, 31
April 2014:	4, 5, 8, 9, 15, 16, 23, 26, 27
May 2014:	1, 10, 17, 22, 24, 27, 28
June 2014:	4, 5, 6, 17, 26
July 2014:	3, 4, 5, 14, 15, 16, 17, 27, 28, 29
August 2014:	13, 14, 31
September 2014:	6, 7, 13, 30
October 2014:	1, 2, 4, 11, 16, 22, 23